IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Purshsottam. Versus Smt. Usha.

S.B. Criminal Misc. Petition No. 575/2005
against the order dated 20-4-2005 passed
by the Judicial Magistrate, Siwana, in
Criminal Misc. Case No. 8A/2004.

...

Date of Order: October 06, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. L.D. Gaur, for the petitioner.
Mr. T.C. Sharma, for the non-petitioner.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 20-4-2005 passed by the Judicial Magistrate, Siwana (for short, "the trial Court" hereinafter) in Criminal Misc. Case No. 8A/2004, whereby the trial Court granted monthly allowance of interim maintenance in favour of the non-petitioner and against the petitioner.

I have heard learned counsel for the petitioner and carefully gone through the order impugned.

It is contended by the learned counsel for the

petitioner that the trial Court fell in error in granting monthly allowance of interim maintenance @ Rs.1000/- and that too from the date of the application.

The monthly allowance of interim maintenance is granted to make interim arrangement during pendency of the application filed by an applicant under Section 125 of the Code, which has to be decided on the basis of pleadings of the parties. The parties are yet to lead evidence and, therefore, it cannot be said that a sum of Rs.1000/- per month awarded by the trial Court as interim allowance of maintenance is excessive.

So far as grant of interim allowance of maintenance from the date of the application is concerned, a Division Bench of this Court in Smt. Savita Sharma Vs. Shri Krishan Murari, (1990) 1 RLR 400, has held that the monthly allowance of interim maintenance should be granted from the date of the application.

In the circumstances, therefore, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of the Court.

The criminal miscellaneous petition is, therefore, dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs